

PATENT COOPERATION TREATY

REC'D 04 OCT 2004

PCT

WIPO

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PPD70192WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB 03/05261	International filing date (day/month/year) 03.12.2003	Priority date (day/month/year) 23.12.2002
International Patent Classification (IPC) or both national classification and IPC C07D487/04		
Applicant SYNGENTA PARTICIPATIONS AG		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 29.06.2004	Date of completion of this report 01.10.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Schmid, A Telephone No. +49 89 2399-8591



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No.

PCT/GB 03/05261

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-85 as originally filed

Claims, Numbers

1-16 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

BEST AVAILABLE COPY

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No.

PCT/GB 03/05261

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-16
	No: Claims	
Inventive step (IS)	Yes: Claims	1-16
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations

see separate sheet

BEST AVAILABLE COPY

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/05261

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- 1) The present compounds differ from the prior art represented by WO 02/088125 A (KRUEGER BERND-WIELAND ;MAULER-MACHNIK ASTRID (DE); DUNKEL RALF (DE) 7 November 2002 (2002-11-07) [D1] and WO 02/088126 A (KRUEGER BERND WIELAND ;MAULER-MACHNIK ASTRID (DE); DUNKEL RALF (DE) 7 November 2002 (2002-11-07) [D2] in the six-membered nitrogen-containing ring condensed to the "pyridine" part of the whole structure instead of a five-membered ring with a nitrogen belonging to both rings as present in D1 and D2, which are considered to representative for the prior art.

The intermediate compounds according to present claim 14 do also exhibit this six-membered nitrogen-containing ring and are also not disclosed in the prior art.

Accordingly the present subject-matter is novel over the prior art according to Article 33(2) PCT.

- 2) As could be proved by the applicant (cf. page 85), the present compounds have excellent fungicidal properties. Since a skilled person starting from D1 or D2 could not predict that the present compounds which have a different basic structure would in fact have the advantageous properties as proved by the applicant, the present subject-matter also involves an inventive step pursuant to Article 33(3) PCT.

BEST AVAILABLE COPY